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SUBJECT: NAM CAM TRIAL: A STEP IN THE RIGHT DIRECTION FOR JUDICIAL REFORM IN VIETNAM?

1. Summary. One day after the conclusion of the biggest trial related to corruption and organized crime in the history of Vietnam, the Vietnamese press is claiming that the judicial system has fundamentally changed. The conviction of 18 GVN officials on charges of corruption and 136 private citizens for crimes ranging from murder to usury, while perhaps only the tip of the iceberg, seemed to bring some satisfaction to a public seeking justice. There remains considerable skepticism, however, that this will reverse the tide of widespread corruption in Vietnam. There was greater optimism about reform of the trial process, since in this trial the court gave defense attorneys greater access to the criminal investigations against their clients, greater access to their clients, and greater freedom of speech. While the sentences may not have been uniformly applied between private citizens and government officials, and there is ongoing debate about specific individuals and/or charges, there was a sense that the convictions and sentences were basically fair. End Summary.

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Was Nam Cam Really the Biggest Fish?  
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2. The headliner in the case was the organized crime kingpin Truong Van Cam (a.k.a. Nam Cam), whose penetration of HCMC police was allegedly so pervasive that a special police task force from other provinces had to be brought in to arrest him. In jail since December 2001, on June 5, 2003 he received two death sentences -- for the murder of Dung Ha and for bribery -- and a total of 42 years in prison for the additional crimes of causing intentional harm, organized gambling, concealing criminals and trying to flee the country. During the pre-trial investigation and in trial testimony Nam Cam denied the charge of ordering the death of Dung Ha, a rival gangster. Press reports said he plans to appeal the verdicts and sentences in his case. But even if the sentence for murder is overturned, Nam Cam is unlikely to escape death by firing squad for the bribery conviction. Both he and his lawyer told the international press they believed the trial was fair.

3. A total of 19 government officials were charged with crimes related to the Nam Cam syndicate. Eighteen of them -- including Tran Mai Hanh (former head of Voice of Vietnam state radio) and Pham Sy Chien (former deputy chief of the Supreme People's Prosecutor's Office), both expelled from the Communist Party (CP) Central Committee (reftel) -- were sentenced to jail terms. The defense attorney for one official -- HCMC police detective Lam Xuan Phat -- succeeded in having the charges against his client dropped, because the statute of limitations had expired for any investigation into a crime he was accused of committing in 1988. The three highest-ranking former GVN officials have not yet been taken into custody. They will appeal their sentences to the Supreme Court in Hanoi. While all but one of the government officials accused has been sentenced to jail, another 72 government officials from 37 different departments/organizations have been disciplined. This includes 52 policemen who have been suspended or removed from duty. Many of the GVN officials were also expelled from party organizations, as an administrative punishment. The HCMC People's Court also delivered 24 suspended sentences and released 10 individuals for time served or pending further investigation into their cases.

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Justice Better Served? What Was Different This Time Around  
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4. Several high-ranking GVN officials announced to the international media early on during the Nam Cam investigation that this would be a model case for reform within the justice system. According to local Vietnamese lawyers and legal analysts who have been following the trial, this has been true in limited measure. The Vietnamese legal system is loosely based on the French civil law system. When an individual is arrested for breaking the law, the person is put into detention for up to four months while the criminal investigators prepare the case for prosecution. Prior to the Nam Cam case, although exceptions have been known to occur, the individual was generally not allowed to meet with a defense attorney during this "investigation" period. However, over the past year, a number of attorneys defending clients in the Nam Cam case have been able to meet with their clients -- whether in prison or at large -- to discuss defense strategy.

15. In the Vietnamese system, after the investigation phase is over, the investigator gives the results to the prosecutor's office. The prosecutor's office then submits an analysis of the portions of the legal code the accused has allegedly violated. It also proposes a range of sentences based on these violations to the panel of judges who will hear the case in trial. One legal analyst close to the Nam Cam case told us the Politburo had a great deal of input into what the eventual charges and sentences would be. On the other hand, this analyst added, usually the results of an investigation are not available to the defense attorney until the first day of the trial, making it very difficult to mount a defense. During the Nam Cam case, however, a number of defense attorneys were able to obtain the results of the investigations into their clients' alleged crimes prior to the trial.

16. At trial, the panel of judges listens to arguments from the prosecution and defense, and decides on the sentence, usually within the range proposed by the prosecutor. Prior to the Nam Cam case, if the defense attorney attempted to present a line of reasoning that did not directly flow from the investigation, or criticized the facts presented by the prosecution as revealed in the investigation, the panel of judges would often silence the attorney, claiming that the argument was beyond the scope of the trial or simply "inappropriate". However, one observer who attended part of the trial said that during the Nam Cam case, several defense attorneys pursued lines of questioning that did not reflect the "facts" of the investigation as presented by the prosecution, and the panel of judges did not overrule these attorneys. In what several lawyers described to ConGenoff as a highly unusual occurrence, the prosecution was almost uniformly quiet, while the judges pursued more lines of questioning with the defense attorneys.

17. The same observer criticized the court for some of its actions. He noted that the court did not pursue several senior government officials who had been subpoenaed but failed to appear. The HCMC People's Court excused their absences for health reasons or with no explanation.

18. The actual decision on sentencing may also have been inappropriately influenced. After the conclusion of the trial period on May 22, the court adjourned for 10 days, during which the panel of judges was to deliberate over the sentences. During this period, the Chief Judge traveled to Hanoi, a move that one Vietnamese lawyer contact interpreted to mean he had gone to receive instructions from the Politburo or Central Committee. There was widespread discussion in the local newspapers as to which GVN or CP organ would ultimately determine the fate of the accused, and the international media called Nam Cam's death sentence a "foregone conclusion." Legal analysts considered ten days a relatively short timeframe in which to decide the fate of 155 individuals accused of multiple crimes.

19. In the end, the various sentences handed down were not perceived as excessive or unfair either in the media or among the Vietnamese we talked with. Rumors that some GVN officials would be given disproportionately light sentences had been sparked after June 4, when a judge prefaced the reading of their verdicts with the caveat that the "revolutionary sacrifices" of those officials and/or their family members would be taken into consideration during sentencing. There appeared to be some relief that the key government officials had received jail sentences. Since there is no public court record to disclose the details of the investigation and the arguments made at trial, the appropriateness of the sentencing will remain a source of legal debate.

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Media Access: Organized but not Controlled  
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110. During the course of the trial, local Vietnamese reporters said they were granted reasonable access. Daily coverage of the trial appeared in all five of Ho Chi Minh City's daily newspapers. HCMC's two evening television news shows only reported on the trial's major developments: the testimony of government officials, the opening and closing statements, and the sentencing phase of the trial. Only the Ho Chi Minh City state-run television station, HTV, was allowed to have television cameras in the courtroom. Cameras were present for the duration of the trial, although only opening statements and the sentencing were broadcast live on television. Members of the international press were only permitted to cover the trial's opening statements and the sentencing phase.

111. Media coverage was organized, as each Vietnamese newspaper had to register with the Court for access to the proceedings. A maximum of two reporters and one photographer from each newspaper were permitted to cover the entire trial. Only reporters who had registered and received a press badge could enter the courthouse. Due to space limitations, journalists were funneled into a small room where they could watch the trial via closed-circuit TV. At the start of each day, photographers

were allowed into the courtroom for ten minutes to photograph the defendants.

¶12. According to a reporter who works for Tuoi Tre and HCMC Radio, Vietnamese reporters were only censored in their coverage of the trial by their editors when the subject matter encroached on "national security" (loosely defined). This reporter did not specify what comments were cut, but said journalists were able to include quotes from the prosecution, defense attorneys and defendants obtained inside or outside the courtroom.

¶13. Comment: Mr. Bui Hoang Danh, one of the judges in the trial, tried to make the point repeatedly to the media that this case was not about widespread corruption, but about the crimes of private citizens and public officials alike. This became a point of distinction between the local media, which portrayed the case as "the case of Nam Cam and his associates," and the international media, who described it as a major corruption scandal. A few local legal analysts view this case as significant because the disparities in sentencing between average (if scumbag) Joes and mighty government officials was not extreme. Despite the "revolutionary" sacrifices by some of the officials being tried, all but one received prison sentences, including up to 12 years. This is a message that has met with widespread approval. Still, a lot can happen between now and the appeal. Once the dust settles on this large-scale organized crime and corruption trial, we will see whether the GVN will gear itself up for a sustained crackdown on official corruption. End Comment.  
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